IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

CRP.No. 8 of 2007()

OP(ELE).9/1998 of I ADDL. DISTRICT COURT, PALAKKAD
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REVN. PETITIONER: RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY,
VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER

SRI. MANITHODI ALAVI, S/O. ALI,
AGED 63 YEARS, MANITHODI HOUSE,
P.O.MANGODE, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 8 OF 2007

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Dated this the 11th day of December, 2007.

O R D E R

When the matter came up for admission today the respondent has been served in the delay condonation application and he has not participated. The revision is preferred against the award of the District Judge, Palakkad in O.P.9/98 whereby the learned District Judge has awarded an additional compensation of Rs.34,153/- with 6% interest. The learned counsel had drawn my attention to paragraph 10 of the award wherein the Court has relied upon the decision of the Full Bench decision of this Court in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** The learned counsel pointed out that as per the latest decision of the Apex Court reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) each case has to be decided on the facts and circumstances of that case. The Apex Court held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So, in the light of the enunciated principles of the Apex Court I feel the matter requires reconsideration for the reason that additional documentary and oral evidence may have to be let in by the parties. Therefore, the order under challenge is set aside and the matter is remitted back to the Court below for fresh consideration in the light of the principles laid down in ***2007 (3) KLT page 1,*** after permitting both the parties to adduce and produce oral and

documentary evidence in support of their respective contentions. Parties are directed to appear before the Court below on 21.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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